

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11438 OF 2019

MURLIDHAR SHAMRAO MUNDKAR ...PETITIONER

VERSUS

THE STATE OF MAHRASHTRA
AND OTHERS ...RESPONDENTS

Mr. P.V. Jadhavar, Advocate for Petitioner
Mr. S.B. Pulkundwar, AGP for Respondents-State
Mr. A.D. Wange, Advocate for Respondent No. 4

**CORAM : S. V. GANGAPURWALA AND
ANIL S. KILOR, JJ.**

DATE : 19th SEPTEMBER, 2019

ORAL ORDER:

1. The learned Assistant Government Pleader waives notice for respondent Nos. 1, 2 and 3. Mr. Wange, the learned Counsel accepts notice for respondent No. 4.
2. The validation proceeding in respect of the tribe claim of the petitioner is pending before the respondent No. 2 - Committee.
3. The learned Counsel submits that, earlier the proposal was not accepted by the Committee, because there was spelling mistake in the tribe certificate issued by the Sub Divisional Officer. The same was corrected after the orders were passed by this Court and the

proposal is submitted. The same is not pending.

4. M. Wange, the learned Counsel for respondent No. 4 submits that as the petitioner did not submit the proposal for validation, respondent No. 4 has rightly terminated the service of the petitioner. The petitioner was appointed from reserved Scheduled Tribe category.

5. It appears that because of the incorrect spelling of the tribe mentioned in the tribe certificate issued by the Sub Divisional Officer, the proceedings could not be filed earlier. After the orders were passed by this Court, the corrected tribe certificate was issued and now, the proposal is pending with the Committee.

6. Issuance of tribe certificate with the incorrect spelling, is not the mistake of the petitioner, but is the mistake committed by the authority issuing tribe certificate. The petitioner cannot be penalized for no fault on his part.

7. The termination is also only on the ground that petitioner has failed to submit the proposal for validation.

8. In light of above, we pass the following order :-

(i) Respondent No. 2 - Committee shall decide the validation proceedings positively within a period of six months from the date of

appearance of the petitioner.

(ii) The petitioner shall appear before the Committee on 30th September, 2019 and shall co-operate in expeditious disposal of the said proceedings.

(iii) The impugned order terminating the service of the petitioner is quashed and set aside.

(iv) Respondent No. 4 shall reinstate the petitioner within a period of 15 days from today.

(v) The petitioner shall be entitled for continuity in service. However, the petitioner will not be entitled for back wages from the date of termination till reinstatement.

(vi) The employer can take further course of action depending upon the judgment that would be delivered by the Committee in the validation proceedings.

9. The writ petition is disposed of. No costs.

[ANIL S.KILOR]
JUDGE

[S.V.GANGAPURWALA]
JUDGE

mta